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OFFICE OF PETITIONS

In re Application of :
La, et. al. : DECISION ON PETITION
Application No. 10/759,018 :
Filed: January 20, 2004 :
Atty. Dkt. No.: P24818 :
:

This is a decision on the petition to revive under 37 CFR 1.181, filed June 29, 2006.

This application was held abandoned May 8, 2006 for failure to timely submit a proper reply to the Notice mailed February 7, 2006. Notice of Abandonment was mailed June 13, 2006.

Petitioners assert non-receipt of the Notice mailed February 7, 2006.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the Notice would have been entered had it been received along with a statement from petitioners that a search of the docket record and file jacket indicated that the Notice was not received.

In view of the evidence presented, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

The application file is being forwarded to the Technology Center 2700 for mailing by the technical support staff of a new Notice. The time period for response will be set to run from the date the new Notice is mailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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Petitions Attorney
Office of Petitions